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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Market Entry and Regulation of
International Common Carriers
With Foreign Carrier Affiliations

RM-8355

REPLY COMMENTS

Sprint Communications Company L.P. ("Sprint") hereby respectfully submits its Reply to the comments filed on AT&T's Petition for Rulemaking in the above-captioned proceeding.

As set forth in its initial Comments, Sprint strongly supports AT&T's request that the Commission promptly initiate a rulemaking proceeding to develop new policies consistent with marketplace realities in the provision of international telecommunications services. Sprint explained that with the increased globalization of vital industries, both U.S. and foreign businesses are demanding seamless international networks to meet their communications needs. This increased globalization, in turn, has required that U.S. carriers attempt to develop global strategies to satisfy such demand, including the formation of alliances and partnerships with foreign carriers.

The rapidly changing international marketplace has also required that U.S. carriers seek authority from foreign governments to provide both domestic and international telecommunications in such countries and that foreign carriers

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seek similar authority from the Commission. However, while foreign carriers are increasingly able to gain access to the U.S. market, U.S. carriers often are stymied in their attempts to gain similar authority in foreign markets. Thus, Sprint agrees with AT&T that the Commission urgently needs to examine the issue of reciprocal rights for the provision of domestic and international telecommunications services and in particular develop policies which will encourage openness in foreign markets and prevent discrimination against U.S. carriers.

Among the other parties filing comments on AT&T's petition, MCI also agrees that "[r]apid transformations are occurring in the demand for international telecommunications services"; that because of "the globalization of industrial and business activities, customers are increasingly demanding uniform, seamless services transparent to geographic and national boundaries"; that telecommunications providers must be able to provide "customers...the ability to link all of their locations on a world-wide basis with functionally the same telecommunications service"; and that, accordingly, it is necessary to "remov[e] existing technological and operations impediments to the provision of sophisticated, seamless international services" (Comments at 8-9). See also Comments of Cable & Wireless Inc. ("CWI") at 5 pointing out the "global trend" of customers demanding "one stop shopping." Thus, MCI states that the Commission should initiate a rulemaking looking toward ways "to enhance the ability of U.S. carriers to expand their services overseas by encouraging foreign administrations to

provide reciprocal and equivalent opportunities to U.S. carriers seeking to enter their markets" (id. at 6).

Nevertheless, MCI argues that AT&T's proposed rules should be rejected because the Commission "has only recently concluded two comprehensive proceedings that address many of the issues AT&T has raised" and because "AT&T's proposal does not...constitute a reasoned improvement of [the] policies" developed in those proceedings (id. at 3). Similarly, other commenting parties oppose AT&T's rulemaking proposal as unnecessary in light of the Commission's recent rulemaking proceedings and decisions on individual applications by foreign carriers or their affiliates seeking to enter the U.S. market (see, e.g., Comments of C&W at 8-9, 12-15; Comments of Telefonica Larga Distancia De Puerto Rico, Inc. ("TLD") at 4-8; Comments of Entel International B.V.I. Corporation at 7-10; Comments of DOMTEL Communications at 2-3; Comments of EMI Communications Corporation at 1).

The difficulty with placing reliance upon these previous decisions, however, is that they were decided before the agreement between MCI and British Telecom ("BT") under which BT will acquire 20 percent of MCI for \$4.3 billion dollars and will be able to participate in MCI's future management. As Sprint pointed out in its initial Comments herein and in its Comments on the Petition for Declaratory Ruling filed by MCI and BT (File No. ISP-93-013), the BT/MCI agreement, which will enable the dominant carrier in the largest overseas foreign market to enter the U.S. market by acquiring a substantial ownership position in the second largest U.S. carrier, raises serious questions of

potential discrimination and exclusive dealing. The previous decisions by the Commission simply did not involve a deal of this magnitude, which obviously has enormous policy and practical consequences to the future of U.S. competition.

Sprint does not suggest here that these broader issues presented by BT's acquisition of a substantial interest in MCI could not be resolved in the context of the BT/MCI declaratory petition. Indeed, certain parties here urge the Commission not to abandon its current approach of evaluating foreign carrier entry into the U.S. market on a case-by-case basis in a Section 214 and cable landing license proceedings (see, e.g., Comments of ACC Global Corporation at 2; Comments of DOMTEL at 6). However, as the BT/MCI deal demonstrates, a foreign and U.S. carrier may attempt to structure their affiliation in a way which is specifically designed to avoid, at least at the outset, scrutiny under Section 214 or the Submarine Cable statute. Moreover, the advantage of the administrative process is that it enables regulatory agencies through notice and comment rulemakings to seek the views from a multitude of parties representing diverse interests and formulate policies in the public interest based upon such views.

In any event, the rules adopted by the Commission in a generic rulemaking proceeding would not obviate case-by-case review of the applications by foreign carriers or their affiliates seeking to enter the U.S. market. Rather, these rules would establish the necessary policy framework for future licensing decisions. Certainly, case-by-case reviews would be more meaningful and effective if such reviews could be measured

against clearly articulated and uniformly applied general standards.

Because of the size and importance of the BT's acquisition of MCI, it is critical that such framework be established before the Commission decides the merits of the BT/MCI declaratory petition. The Commission cannot realistically establish conditions for entry into the U.S. telecommunications services market subsequent to, or apart from, a decision as to the correct course of action on BT/MCI.

In this regard, Sprint believes that the framework suggested by AT&T is generally reasonable, although as Sprint pointed out in its initial Comments (at 7, fn. 2), some of AT&T's conditions may prove difficult to implement or to enforce. The contentions by CWI that the Commission's current framework adequately advances the U.S. interests "in competitively provided international services" (Comments at 2); that "AT&T seeks to rehash old arguments" (id.); and that AT&T's proposal would "ultimately, close foreign service market opportunities to U.S. companies" (id. at 4) are without merit. See also Comments of TLD at 8-13; Comments of DOMTEL at 2; and Comments of Entel at 5-10. The indisputable fact is that the Commission's policies adopted to date have not resulted in the opening of foreign markets to U.S. carriers seeking to provide competitive domestic and international services in those markets. See AT&T's Petition at 2 ("[F]oreign governments have not followed" the U.S. lead in promoting competition "and are either moving to open their markets to competition slowly, or not at all").

For example, although the Commission has authorized the monopoly Spanish carrier Telefonica de Espana to enter the U.S. market through its acquisition of TLD, Spain does not permit the entry of U.S. carriers into its market (AT&T's Petition at 18, n. 17). BT and MCI have asked the Commission to expedite its consideration of their Petition for Declaratory Ruling which invites the Commission to essentially "rubber stamp" BT's facilities-based entry into the U.S. market through BT's acquisition of 20 percent of MCI. Yet, Sprint's nearly two-year old application to construct and operate a domestic and international network in the U.K. languishes before the U.K. Department of Trade and Industry ("DTI"). Even MCI, which, as stated, believes that AT&T's specific proposals are not well-taken, concedes that the Commission needs to consider measures which would assist the efforts of U.S. carriers seeking to enter foreign markets (Comments at 24).


CWI complains that AT&T's proposals here seek to establish a standard of "mirror reciprocity" and that "such a standard would close off the U.S. telecommunications marketplace to foreign-owned companies..." (CWI Comments at 4). See also MCI's Comments at 3-4 (AT&T's proposals would "bar foreign carriers from participating in the U.S. international service market or severely constrict their participation through relationships with U.S. carriers"). CWI does not explain what it means by the term "mirror reciprocity." However, it is becoming increasingly clear that in order to determine whether a U.S. carrier has a equivalent opportunity to enter the home market of a foreign carrier seeking to enter the U.S. market, the Commission, at a

minimum, must examine whether the foreign carrier will provide equal interconnection to the local network at reasonable and nondiscriminatory rates; whether equal access is afforded to consumers in the foreign market; whether there is number portability for toll service, etc. These factors--and not whether a U.S. carrier has been granted the legal authority by the foreign administration to provide service--will govern whether a U.S. carrier is able, as a practical matter, to enter the foreign market. In other words, the issue of equivalence and reciprocity must be examined in light of whether a U.S. carrier has a realistic opportunity to enter the foreign market and not on the basis of sloganeering.

For the reasons set forth above and in its initial Comments, Sprint respectfully requests that the Commission grant AT&T's Petition for Rulemaking.

Respectfully submitted,

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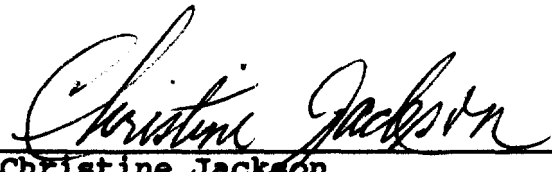
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